

Board Members

Maryann Santos de Barona, Ph.D.
Chairperson
James J. Cox, Ed.D.
Vice-Chairperson
Joseph C. Donaldson
Secretary
Gary D. Lovejoy, Ph.D.
Miki Paul, Ph.D.
Byron N. Rimm
Michael J. Rohrbaugh, Ph.D.
Fred Wiggins, Ph.D.
Vacant – Public Member



State of Arizona Board of Psychologist Examiners

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Phoenix, Arizona 85007

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Staff

Maxine McCarthy
Executive Director
Marcus E. Harvey
Deputy Director
David S. Shapiro
Investigator
Shari S. Courtney
Administrative
Assistant

REGULAR SESSION MINUTES

Friday, June 3, 2005

1400 West Washington
Basement Conference Room, #B-1
Phoenix, AZ 85007

1. CALL TO ORDER

The regular session of the Arizona State Board of Psychologist Examiners was called to order by Chairperson Santos de Barona at 8:30 a.m. on Friday, June 3, 2005. Three Executive Sessions were held on Friday, June 3, 2005 from 9:02 a.m. to 9:23 a.m., from 11:42 a.m. to 11:46 a.m., and from 5:00 p.m. to 5:07 p.m. for the purpose of obtaining confidential legal advice from the Board's attorney.

2. ROLL CALL

Board Members Present

Maryann Santos de Barona, Ph.D. - Chairperson
Joseph C. Donaldson - Secretary
Gary D. Lovejoy, Ph.D.
Miki Paul, Ph.D.
Michael J. Rohrbaugh, Ph.D.

Board Members Absent¹

James J. Cox, Ed.D. - Vice-Chairperson
Byron N. Rimm

Board Member Appointed

But Not Inducted²

Fred Wiggins, Ph.D.

Staff Present

Maxine McCarthy, Executive Director
Marcus Harvey, Deputy Director
David Shapiro, Investigator
Shari Courtney, Administrative Assistant

Attorney General's Office

Elizabeth Campbell, J.D.
Assistant Attorney General

3. REMARKS/ANNOUNCEMENTS

Dr. Santos de Barona announced that Dr. Fred Wiggins of Tucson had been appointed to the Board by Governor Napolitano to fill the seat vacated by Dr. Wil Counts. She also introduced and welcomed the Board's new Assistant Attorney General, Elizabeth Campbell, J.D. to the Board. Dr. Santos de Barona then noted that documentation was available for licensees who wished to receive continuing education credit for attending Board meetings and explained the procedures

¹ There was currently a vacancy on the Board for a public member position.

² Dr. Wiggins was present in the audience for a portion of the meeting on Friday, June 3, 2005 but did not participate.

for documenting the attendance. Finally, she stated that anyone was welcome to complete a Board meeting assessment survey.

4. APPROVAL OF MINUTES

- **Regular Session – April 1, 2005**

A motion was made by Dr. Paul, seconded by Mr. Donaldson, and unanimously carried (5-0), to approve the April 1, 2005 Regular Session minutes.

- **Executive Session – April 1, 2005**

A motion was made by Dr. Lovejoy, seconded by Mr. Donaldson, and unanimously carried (5-0), to approve the April 1, 2005 Executive Session minutes.

- **Conference Call Regular Session – May 6, 2005**

A motion was then made by Dr. Paul, seconded by Dr. Rohrbaugh, and carried (3-0-2), with Dr. Lovejoy and Mr. Donaldson abstaining from the vote, to approve the May 6, 2005 Conference Call Regular Session minutes.

5. CALL TO THE PUBLIC

Chairperson Santos de Barona gave the public the opportunity to address the Board at this time but no one wished to speak.

6. DISCUSSION/DECISION REGARDING SETTLEMENT PROPOSAL – CRAYDON McDONALD, Ph.D. – No. 00-14

A motion was made by Dr. Lovejoy, seconded by Dr. Paul, and unanimously carried (5-0), to move into Executive Session for the purpose of obtaining confidential legal advice from the Board's attorney.

Upon return to open session, Dr. Santos de Barona explained that it was the time and place to discuss the proposed settlement offer by Dr. Craydon McDonald. Dr. McDonald was present with his attorney, Louis Diesel, J.D., who made a statement to the Board. Board members then proceeded to deliberate. Dr. Lovejoy made a motion, seconded by Dr. Paul, and unanimously carried (5-0), to make a counterproposal, offering a letter of concern that Dr. McDonald's intervention strategy in this case was unwise and subject to misinterpretation. Dr. McDonald would be entitled to no attorney's fees and the agreement would be signed by the Attorney General's Office, Ms. McCarthy, and Dr. McDonald and he would agree to waive all present and future claims against the Board, its staff and Assistant Attorney General. Mr. Diesel asked some clarifying questions, indicated that he would need to discuss the Board's counterproposal with his client, and that he would reply to the Board within a week's time.

7. INFORMAL INTERVIEW – LYDIA GARRETT, Ph.D. – No. 04-48

Dr. Santos de Barona explained that it was the time and place for the informal interview of Lydia Garrett, Ph.D. regarding Case No. 04-48. Dr. Garrett was present and introduced herself, as did Board members and Staff. Ms. Campbell was also present as legal counsel for the Board. Mr. Shapiro summarized the allegations after which Dr. Santos de Barona explained the procedures for the hearing. Dr. Garrett was sworn in by the court reporter, whose transcript shall serve as the official record of the proceedings. Board members then proceeded to interview Dr. Garrett. A motion was made by Dr. Santos de Barona, seconded by Dr. Lovejoy, and unanimously carried (5-0), to move into Executive Session for the purpose of obtaining confidential legal advice from the Board's attorney.

Upon return to open session, Board members proceeded to deliberate. A motion was made by Dr. Lovejoy, seconded by Dr. Paul, and unanimously carried (5-0), to find Dr. Garrett in violation of A.R.S. §§ 32-2061(A)(13)(k), (o), and (cc); 13-3620(A); 25-403(H); 12-2293(C); and § 164.542(b)(2)(A)(B) of the HIPAA regulations. Board members then proceeded to discuss findings of fact. A motion was made by Mr. Donaldson, seconded by Dr. Rohrbaugh, and

unanimously carried (5-0), to adopt findings of fact as discussed. Dr. Paul then made a motion, seconded by Mr. Donaldson, and carried (3-2), with Drs. Lovejoy and Rohrbaugh voting no, to include an additional finding of fact. Dr. Lovejoy then made a motion seconded by Dr. Rohrbaugh, and unanimously carried (5-0), to amend the conclusion of law A.R.S. § 32-2061(A)(13)(o) to only "...engaging in activities as a psychologist that are unprofessional by current standards of practice". Board members then proceeded to discuss the terms of a disciplinary order. Dr. Lovejoy made a motion, seconded by Mr. Donaldson, and unanimously carried (5-0), to issue a decree of censure to Dr. Garrett, place her on probation for one year with the standard terms, and require that she complete an ethics course that includes legal issues.

8. CASE DISCUSSION/DECISION

a) Wendy Hart-Stravers, Ph.D. – No. 05-05

Mr. Shapiro summarized the allegations for the Board after which Board members proceeded to deliberate. Dr. Lovejoy made a motion, seconded by Mr. Donaldson, which carried (4-1), with Dr. Paul voting no, to dismiss the case because it was without merit.

b) Richard Kapp, Ph.D. – No. 05-06

Mr. Shapiro summarized the allegations for the Board. The Complainant was present and with the aid of an American Sign Language interpreter made a statement to the Board. Board members then proceeded to discuss the case. A motion was made by Dr. Paul which failed for lack of a second, to issue a letter of concern to Dr. Richard Kapp expressing concern that he revealed the feelings of another client. Dr. Lovejoy then made a motion, seconded by Mr. Donaldson, which carried (4-1), with Dr. Paul voting no, to dismiss the case because it was without merit.

c) Scott Storm, Psy.D. – No. 05-07

Dr. Scott Storm was present and made a statement to the Board. Mr. Shapiro summarized the allegations and Board members proceeded to deliberate. Dr. Lovejoy made a motion, seconded by Mr. Donaldson, and unanimously carried (5-0), to offer Dr. Storm a consent agreement to a rehabilitation order requiring that he shall comply with the terms of his federal probation and notify the Board of any violations of such.

d) Robert Mosby, Ph.D. – No. 05-09

Dr. Lovejoy recused himself from this case due to a longstanding personal relationship with Dr. Robert Mosby. Mr. Shapiro summarized the allegations for the Board. Dr. Mosby was present and made a statement to the Board after which Board members proceeded to deliberate. Mr. Donaldson made a motion, seconded by Dr. Rohrbaugh, which carried (3-1-1), with Dr. Paul voting no and Dr. Lovejoy recused, to dismiss the case because it was without merit.

e) Walter Fidler, Ph.D. – No. 05-10

Mr. Shapiro summarized the allegations for the Board. Dr. Lovejoy made a motion, seconded by Dr. Paul, and unanimously carried (5-0), to move into Executive Session for the purpose of obtaining confidential legal advice from the Board's attorney.

Upon return to open session, Dr. Lovejoy made a motion, seconded by Dr. Paul, and unanimously carried (5-0), to include the allegations of this case with those in Complaint No. 04-11, which had been voted to formal hearing before the Board.

f) Norman Bertel, Ph.D. – No. 05-17

Mr. Shapiro summarized the allegations for the Board. Dr. Norman Bertel was present with his attorney, Gary Rohlwing, J.D., who made a statement to the Board. Board members then proceeded to deliberate. Dr. Lovejoy made a motion, seconded by Dr. Rohrbaugh, which carried (4-1), with Dr. Paul voting no, to dismiss the case because it was without merit.

9. MOTION FOR REHEARING OR REVIEW – DAVID E. POOL, Psy.D. – No. 04-27

Dr. Santos de Barona noted that it was the time for the oral argument on Dr. David Pool's motion for rehearing or review of Case No. 04-27. Dr. Pool was present and introduced himself, as did Board members and Staff. Ms. Campbell was also present as legal counsel for the Board. Dr. Santos de Barona explained the procedures for the proceeding. A court reporter was present and the transcript shall serve as the official record of the proceeding. Dr. Pool made a statement to the Board after which Board members proceeded to deliberate. A motion was then made by Mr. Donaldson, seconded by Dr. Paul, which carried (4-1), with Dr. Lovejoy voting no, to deny the motion for rehearing or review.

10. DISCUSSION/DECISION REGARDING INITIATING BOARD vs. COMPLAINT – DAVID E. POOL, Psy.D.

Mr. Shapiro summarized the allegations and Board members proceeded to deliberate. A motion was made by Dr. Lovejoy, seconded by Dr. Paul, and unanimously carried (5-0), to open a complaint against Dr. Pool and to order that he undergo a psychological evaluation to evaluate his fitness to practice, and to notify the Board that he has scheduled an appointment within 30 days and complete the evaluation within 60 days.

Saturday, June 4, 2005

1400 West Washington
Basement Conference Room, #B-1
Phoenix, AZ 85007

11. CALL TO ORDER

The regular session of the Arizona State Board of Psychologist Examiners was called to order by Chairperson Santos de Barona at 8:30 a.m. on Saturday, June 4, 2005. Four Executive Sessions were held on Saturday from 9:05 a.m. to 9:25 a.m., 9:46 a.m. to 9:51 a.m., approximately 10:25 a.m. to 10:45 a.m., and 11:13 a.m. to 11:46 a.m. for the purpose of obtaining confidential legal advice from the Board's attorney.

12. ROLL CALL

Board Members Present

Maryann Santos de Barona, Ph.D. - Chairperson
James J. Cox, Ed.D. - Vice-Chairperson
Joseph C. Donaldson - Secretary
Gary D. Lovejoy, Ph.D.
Miki Paul, Ph.D.
Byron N. Rimm
Michael J. Rohrbaugh, Ph.D.

Board Members Absent¹

None

Staff Present

Maxine McCarthy, Executive Director
Marcus Harvey, Deputy Director
David Shapiro, Investigator
Shari Courtney, Administrative Assistant

Attorney General's Office

Elizabeth Campbell, J.D.
Assistant Attorney General

**Solicitor General's Office
Participating by Telephone**

Victoria Mangiapane, J.D.²
Assistant Attorney General

¹ There was currently a vacancy on the Board for a public member position.

² Ms. Mangiapane was available as legal counsel for the Board on Item No. 15.

13. DISCUSSION/DECISION REGARDING SETTLEMENT PROPOSAL – FRANK POWERS, Ph.D. – No. 03-40

Dr. Santos de Barona explained that this matter had been voted to formal hearing and that Ms. McCarthy and Ms. Campbell had met with Dr. Frank Powers and his attorney, Charles Buri, J.D., at their request to discuss a settlement proposal. A court reporter was present and the transcript shall serve as the official record of the proceedings. Ms. Campbell explained the terms of the proposed consent agreement to the Board. Mr. Buri then made a statement to the Board after which Howard Snyder, J.D., attorney for the complainants, made a statement to the Board. Mr. Buri then made a rebuttal statement to the Board. Ms. Campbell addressed the Board again and Board members proceeded to deliberate. Board members discussed some minor changes to the proposed consent agreement. Finally, a motion was made by Dr. Lovejoy, seconded by Dr. Paul, and unanimously carried (7-0), to approve the consent agreement as amended by the discussion.

14. MOTION FOR REHEARING OR REVIEW AND DISCUSSION/DECISION REGARDING CONSENT AGREEMENT – MARILYN KIEFFER-ANDREWS, Ph.D. – No. 03-39

Dr. Santos de Barona noted that it was now the time for oral argument on the motion for rehearing or review made by Dr. Marilyn Kieffer-Andrews. Dr. Paul made a motion, seconded by Mr. Rimm, and unanimously carried (7-0), to move into Executive Session for the purpose of obtaining confidential legal advice from the Board's attorney.

Upon return to open session, Dr. Kieffer-Andrews and her attorney, Larry Cohen, J.D., introduced themselves, as did Board members and Staff. Also present was Ms. Campbell as legal counsel for the Board. Dr. Santos de Barona then explained the procedures for the proceeding. A court reporter was present and the transcript shall serve as the official record of the proceeding. Mr. Cohen then made his oral argument to the Board requesting rehearing. Howard Snyder, J.D., attorney for the complainants, next addressed the Board. Board members then proceeded to deliberate. Mr. Rimm made a motion, seconded by Dr. Cox, and unanimously carried (7-0), to move into Executive Session for the purpose of obtaining confidential legal advice from the Board's attorney.

Upon return to open session, a motion was made by Dr. Cox, seconded by Dr. Paul, which carried (6-1), with Mr. Rimm voting no, to grant a rehearing of Case No. 03-39 on the grounds that there may have been either an excessive or insufficient penalty.

Dr. Santos de Barona next opened up discussion on the proposed consent agreement which, in light of the Board's action, Mr. Cohen then withdrew.

15. HEARING ON DENIAL OF LICENSE APPLICATION – CHARULATA NADIG, Psy.D.

Dr. Santos de Barona noted that it was now the time and place for the hearing on denial of license application of Charulata Nadig, Psy.D. Dr. Nadig was present and introduced herself, as did Board members and Staff. Ms. Campbell was also present representing the State in this proceeding. Victoria Mangiapane, J.D., of the Solicitor General's Office, was available by telephone as legal counsel for the Board. Dr. Nadig was sworn in by the court reporter who was present, whose transcript shall serve as the official record of the proceedings. Dr. Nadig made an opening statement to the Board followed by an opening statement from Ms. Campbell. Ms. Campbell then asked questions of Dr. Nadig, as did Board members. Ms. Campbell then also questioned Mr. Harvey as a witness for the State. Dr. Nadig and Ms. Campbell then made closing statements and Board members proceeded to deliberate. A motion was made and seconded and unanimously carried (7-0), to move into Executive Session for the purpose of obtaining confidential legal advice from the Board's attorney.

Upon return to open session, a motion was made and seconded and unanimously carried (7-0), to offer a consent agreement to Dr. Nadig, granting her a license if she agreed to be on probation for two years under the treatment of a psychiatrist with quarterly reports provided to the Board. A motion was then made and seconded and unanimously carried (7-0), to continue this hearing if Dr. Nadig did not sign the Consent Agreement.

16. DISCUSSION/DECISION REGARDING SETTLEMENT PROPOSAL – JOHN STAPERT, Ph.D. – No. 02-28

Dr. Lovejoy disclosed that as a member of the Arizona Psychological Association's Governing Board he attended a public meeting at which an attorney briefed the Association regarding an amicus brief he would be filing in the Stapert case. However, Dr. Lovejoy explained that it would not impair his ability to participate objectively. A motion was made by Dr. Cox, seconded by Dr. Lovejoy, and unanimously carried (7-0), to move into Executive Session for the purpose of obtaining confidential legal advice from the Board's attorney.

Upon return to open session, Board members deliberated and Dr. Cox made a motion, seconded by Mr. Rimm, and carried (5-0-2) with Drs. Rohrbaugh and Lovejoy abstaining from the vote, to not discuss this settlement proposal as the matter had already been decided by the courts.

17. DISCUSSION/DECISION REGARDING CORRESPONDENCE DATED MAY 10, 2005 RECEIVED FROM JOHN KENT, Ph.D. – Friday, June 3, 2005

Board members discussed the correspondence that was received from Dr. John Kent. A motion was made by Dr. Paul, seconded by Mr. Donaldson, and unanimously carried (5-0), to take no action.

18. DISCUSSION/DECISION REGARDING RATIFICATION OF REACTIVATION OF LICENSES – Friday, June 3, 2005

Mr. Harvey explained that the five psychologists listed on the agenda were on inactive status and had applied to reactivate their licenses. He reported that the appropriate fees had been paid, documentation of the required continuing education hours had been received, and that those licensees who were licensed in other states were in good standing in those other states. Dr. Lovejoy made a motion, seconded by Dr. Paul, and unanimously carried (5-0), to approve the reactivation of the licenses of the following psychologists:

- **Ellen Cole, Ph.D.**
- **Dallas Demmitt, Ph.D.**
- **David Street, Jr., Ed.D.**
- **Barry Sukoneck, Ed.D.**
- **Marley Watkins, Ph.D.**

19. COUNSEL REPORTS – Friday, June 3, 2005

• **Litigation – Discussion/Decision Regarding:**

- ❖ **Kalas v. Board – CV2004-0200** – Ms. Campbell reported that this case was remanded to the superior court of Coconino County from U.S. District Court following the dismissal with prejudice of the Board of Psychologist Examiners, leaving Ms. McCarthy as the only remaining party. Ms. Campbell stated that she filed a motion to dismiss after which Dr. Kalas' attorney filed an amended petition for special action in which they have added the individual Board members as parties. She informed the Board that she planned to file a motion to dismiss which would supersede and incorporate the previous motion to dismiss. Oral argument was scheduled for August 1st.

20. EXECUTIVE DIRECTOR'S REPORT – Friday, June 3, 2005

- **Financial** – Ms. McCarthy reported that at the end of April, with two months remaining in the fiscal year, the Board had expended only 69% of its total 2005 appropriation due to continued conservative spending.

Ms. McCarthy stated that the Governor's had now signed the budget bill and that the final budget figure for the Fiscal Year 2006 had been received, which was \$346,800. This was very close, she noted, to what the Board had requested when the budget was submitted last September.

The renewal period ended on April 30th, Ms. McCarthy noted, and to date, the Board had collected \$543,100. Of this amount, she reported, the Board retains 90% or \$488,790 and gives the State General Fund 10% or \$54,310.

Ms. McCarthy reported that the Board currently had 18 licensees who had not renewed their active licenses and 29 who had not renewed their inactive licenses and that all of them had been notified by certified mail regarding their options at this point.

Finally, Ms. McCarthy informed the Board that by the end of June, the Board would be conducting a random audit of licensees to determine compliance with continuing education requirements.

21. LICENSING REPORT – Friday, June 3, 2005

- **New Licenses Issued** – Mr. Harvey reported that the Board had licensed the following nine psychologists since the April 1, 2005 meeting, one of them by credential:

3708	Aaron Krasnow, Ph.D.	3713	Linda Laird, Ph.D.
3709	Adriana Tarazon, Ph.D.	3714	Karen Peterson, Ph.D.
3710	Christina Hibbert, Psy.D.	3715	Jonathan Weller, Ph.D.
3711	Jason Baker, Ph.D.	3716	Michael Tilus, Psy.D.
3712	Cynthia Monheim, Ph.D.		

Mr. Harvey reported that the Board had issued 26 new licenses this year, which compared to 25 issued by this time last year.

- **EPPP Results** – Mr. Harvey then reported that the following four applicants had passed the Examination for Professional Practice in Psychology in March and April, with two failing:

Pass
Jason Baker, Ph.D.
Linda Laird, Ph.D.
Cynthia Monheim, Ph.D.
Jonathan Weller, Ph.D.

Fail
Katrina Buwalda, Psy.D.
Nancy Means, Psy.D.

- **New Applications** – Finally, Mr. Harvey stated that the Board had received 18 new applications and two reapplications over the past two months, which made 39 total applications received this year, and which compared to 35 applications received by this time last year.

22. DISCUSSION/DECISION REGARDING APPLICATIONS FOR LICENSURE – Friday, June 3, 2005

➤ **REQUESTS FOR EXAMINATION**

Dr. Paul made a motion, seconded by Dr. Lovejoy, and unanimously carried (5-0), that the following applicants, having met the requirements of A.R.S. § 32-2071 and A.A.C. R4-26-203, be approved to sit for the Examination for Professional Practice in Psychology, and for licensure upon receipt of a passing score on the Examination, and payment of the pro-rated original license fee:

- **Karin Ahlstrand, Ph.D.**
- **Robert Harmison, Ph.D.**
- **Gwendolyn Johnson, Ph.D.**

➤ **REQUESTS FOR LICENSURE**

Dr. Paul then made a motion, seconded by Dr. Lovejoy, and unanimously carried (5-0), that the following applicants, having met the requirements of A.R.S. § 32-2071.01(A), be approved for licensure upon payment of the pro-rated original license fee:

- **Nikki Brodsky-Jones, Ph.D.**
- **Thomas Brunner, Ph.D.**

- **Juliana Fiore, Ph.D.**
- **Jennifer Riff, Ph.D.**

➤ **RATIFICATION OF LICENSE ISSUED BY CREDENTIAL**

Dr. Paul made another motion, seconded by Dr. Lovejoy, and unanimously carried (5-0), to ratify the issuance of licensure by credential **Karen Peterson, Ph.D.**, who had met the requirements of A.R.S. § 32-2071.01 by means of her Certificate of Professional Qualification in Psychology.

Finally, Dr. Paul announced that the following applications remained ongoing:

David Davidson-Methot, Ph.D.
Gary Denny, Ph.D.
Patricia Hernandez, Psy.D.
Trisha Lavigne, Psy.D.
Kristine Neal, Ed.D.
Linda Salvucci, Ph.D.
Elizabeth Sikora, Ph.D.

23. ADJOURNMENT

There being no further business to come before the Board, a motion was made by Dr. Lovejoy, seconded by Dr. Paul, and unanimously carried (7-0), to adjourn the meeting at 11:54 a.m.

Prepared by:

Marcus Harvey
Deputy Director

Respectfully submitted,

/s/ Joseph C. Donaldson
Secretary